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Serial No. 10/026,122

Docket No.: KCC-15,837

**REMARKS**

Applicants' undersigned attorney thanks the Examiner for her comments. Applicants respectfully request reconsideration of this patent application, particularly in view of the above Amendment and the following remarks. Currently, Claims 1-23 and 25-37 are pending, with claims 18-21 and 37 withdrawn from consideration.

**Amendments to the Claims**

Claims 1-17, 22, 23, and 25-36 have been examined, with no claims being allowed.

Independent Claims 1, 22, 28, and 29 have been amended to include the clarify the term "percent fit range." Support for this clarification is provided at page 15, line 20 – page 16, line 3.

Independent Claim 1 has been further amended to include the limitation of at least one secondary component to achieve the percent fit range of at least about 33%, and a Markush group of secondary components. Support for this limitation is provided at page 46, line 1 – page 47, line 11.

Independent Claims 22 and 29 have been further amended to include the limitation of elastic side panels or ears with fasteners bonded thereto, and an attachment panel, wherein the fasteners are laterally separated by at least about 2.0 inches with respect to the attachment panel when the absorbent article is in a prefastened condition. Support for this limitation is provided at page 32, line 15 – page 33, line 4, and page 37, lines 1-3.

No new matter has been added by this Amendment. The total number of claims remains unchanged, and the number of independent claims also remains unchanged. Therefore, no fee for additional claims is due.

**Objection to the Specification**

The objection to the specification as failing to provide proper antecedent basis for the claimed subject matter is respectfully traversed. Applicants have amended the claims, thereby removing the term "second fit range."

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Accordingly, Applicants respectfully request reconsideration and withdrawal of this objection.

### Claim Rejections - 35 U.S.C. §112

The rejection of Claims 29-36 under 35 U.S.C. §112, first paragraph, is respectfully traversed. Applicants have amended Claim 29, thereby removing the "150 mm less" limitation. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection.

### Claim Rejections - 35 U.S.C. §102

#### A. Ando et al.

The rejection of Claims 1-6, 16-17, and 22-23 under 35 U.S.C. §102(b) as being anticipated by Ando et al. (U.S. Patent No. 5,370,634, hereinafter "Ando") is respectfully traversed, particularly in view of the above Amendment and the following remarks.

For a reference to anticipate a claim, the reference must disclose each and every element or limitation of the claim. Ando fails to disclose each and every element or limitation of Applicants' amended independent Claims 1 and 22.

More particularly, Ando fails to disclose a prefastened, refastenable absorbent article. As explained at Col. 2, lines 49-53:

According to the present invention, the diaper can be put on the wearer simply by fastening the connection means provided at both side portions of the waist portion *after* the wearer's feet are put into the pair of leg opening portions through the waist opening portion. (emphasis added)

Thus, Ando *teaches away* from a prefastened absorbent article. Furthermore, Ando fails to disclose a prefastened absorbent article having a percent fit range of at least about 33% according to the following equation:

$$\text{Percent Fit Range} = \frac{WP_c - WP_r}{WP_r} \times 100$$

wherein  $WP_c$  is an extended waist performance measurement of the absorbent article and  $WP_r$  is a relaxed waist performance measurement of the absorbent article.

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Thus, the percent fit range limitation is based on measurements of the waist opening, and therefore does not include any process steps.

Ando does not disclose or suggest an outer cover that is extensible in a lateral direction or elastic in a lateral direction of the absorbent article, and a bodyside liner at least partially bonded to the outer cover and extensible in a lateral direction or elastic in the lateral direction, as required by Applicants' claimed invention.

Instead, Ando discloses that film materials suitable as a backsheet or bodyside liner can be stretched to make the film material permeable. Ando teaches stretching the film in the machine or *longitudinal* direction. Such stretching does not make the film material extensible or elastic in the *lateral* direction, as in Applicants' claimed invention. As discussed in Applicants' specification, providing extensibility or elasticity in the *lateral* direction improves the prefastened absorbent article's fit range.

Ando also fails to disclose any of the secondary components recited in the Markush group of Applicants' amended Claim 1.

Furthermore, Ando fails to disclose a prefastened absorbent article in which first and second fasteners are releasably attached to an attachment panel and are laterally separated by at least about 2.0 inches with respect to the attachment panel, as recited in Applicants' amended Claim 22.

For at least the reasons presented above, Applicants respectfully submit that Claims 1 and 22 are not anticipated by Ando. Because Claims 2-6, 16, and 17 depend from Claim 1, and Claim 23 depends from Claim 22, these claims are also not anticipated by Ando. Thus, Applicants respectfully request withdrawal of this rejection.

**B. Arndt et al.**

The rejection of Claims 1-3, 10-12, 15-17, 22-23, and 26-28 under 35 U.S.C. §102(b) as being anticipated by Arndt et al. (PCT Publication No. WO 99/55265, hereinafter "Arndt") is respectfully traversed, particularly in view of the above Amendment and the following remarks.

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Arndt fails to disclose each and every element or limitation of Applicants' amended independent Claims 1, 22, and 28. Thus, Arndt fails to anticipate these claims.

Arndt is directed to an absorbent article having a specially designed fluid storage region and fluid distribution region. Like the Ando reference, Arndt also fails to disclose a prefastened, refastenable absorbent article. Furthermore, Arndt fails to disclose a prefastened absorbent article having a percent fit range of at least about 33% according to the following equation:

$$\text{Percent Fit Range} = \frac{WP_e - WP_r}{WP_r} \times 100$$

wherein  $WP_e$  is an extended waist performance measurement of the absorbent article and  $WP_r$  is a relaxed waist performance measurement of the absorbent article. As explained above, the percent fit range limitation is based on measurements of the waist opening, and therefore does not include any process steps.

Arndt does not teach or suggest an outer cover that is extensible in a lateral direction or elastic in a lateral direction of the absorbent article, and a bodyside liner at least partially bonded to the outer cover and extensible in a lateral direction or elastic in the lateral direction, as required by Applicants' claimed invention.

Instead, Arndt discloses that backsheets may be formed using film materials that are stretched to make microporous films. The film materials are mechanically stretched to a permanent condition thereby creating small cracks around filler materials. Microporous films allow gas molecules to pass through the film, but such stretching does not make the films extensible or elastic in the lateral direction, as in Applicants' claimed invention.

Like Ando, Arndt also fails to disclose any of the secondary components recited in the Markush group of Applicants' amended Claim 1.

Furthermore, Arndt fails to disclose a prefastened absorbent article in which first and second fasteners are releasably attached to an attachment panel and are laterally separated by at least about 2.0 inches with respect to the attachment panel, as recited in Applicants' amended Claim 22.

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For at least the reasons presented above, Applicants respectfully submit that Claims 1, 22, and 28 are not anticipated by Arndt. Because Claims 2, 3, 10-12, and 15-17 depend from Claim 1, and Claims 23, 26, and 27 depend from Claim 22, these claims are also not anticipated by Arndt. Thus, Applicants respectfully request withdrawal of this rejection.

**Claims Rejection - 35 U.S.C. § 103(a)**

The rejection of Claims 7-9, 13, 14, 24 and 25 under 35 U.S.C. §103(a) as being unpatentable over Ando is respectfully traversed, particularly in view of the above Amendment and the following remarks.

As explained above, Ando not only fails to disclose or suggest a prefastened, refastenable absorbent article, but in fact teaches away from a prefastened absorbent article. Furthermore, Ando fails to disclose a prefastened absorbent article having a percent fit range of at least about 33% according to the following equation:

$$\text{Percent Fit Range} = \frac{WP_e - WP_r}{WP_r} \times 100$$

wherein  $WP_e$  is an extended waist performance measurement of the absorbent article and  $WP_r$  is a relaxed waist performance measurement of the absorbent article.

Ando does not disclose or suggest an outer cover that is extensible or elastic in a *lateral* direction of the absorbent article, and a bodyside liner at least partially bonded to the outer cover and extensible or elastic in the *lateral* direction, as required by Applicants' claimed invention.

Ando also fails to disclose any of the secondary components recited in the Markush group of Applicants' amended Claim 1.

Furthermore, Ando fails to disclose a prefastened absorbent article in which first and second fasteners are releasably attached to an attachment panel and are laterally separated by at least about 2.0 inches with respect to the attachment panel, as recited in Applicants' amended Claim 22.

Claims 7-9, 13 and 14 depend from and further limit amended independent claim 1. Claims 24 and 25 depend from and further limit amended

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independent claim 22. There is no suggestion or motivation to modify Ando to achieve Applicants' claimed invention.

For at least the reasons given above, Applicants respectfully submit that the teachings of Ando fail to disclose or suggest Applicants' claimed invention. Accordingly, reconsideration and withdrawal of this rejection is respectfully requested.

### Conclusion

Applicants intend to be fully responsive to the outstanding Office Action. If the Examiner detects any issue which the Examiner believes Applicants have not addressed in this response, Applicants' undersigned attorney requests a telephone interview with the Examiner.

Applicants sincerely believe that this Patent Application is now in condition for allowance and, thus, respectfully request early allowance.

Respectfully submitted,



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